

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC#

DATE FILED: 19 AUG 2010

Chester Davis,

Plaintiff

-V-

Countrywide Home loans, et al,

Defendants

No. 09 Civ. 8606 (RJS) (HBP)

NOTICE OF MOTION FOR
RECONSIDERATION

PRO SE OFFICE

PLEASE TAKE NOTICE that upon the annexed affirmation of Chester Davis, affirmed on August 19, 2010, and upon the exhibits attached thereto, the accompanying, and the pleadings herein, plaintiff will move this Court, before Honorable Judge Henry Sullivan, United States District Judge, for an order pursuant to Rule 60(b)(1) of the Federal Rules of Civil Procedure granting:

- Reopening of case No. 09 Civ 8606 (RJS) (HBP)
- Reconsideration of Order Adopting Report and Recommendation
- Relief From a Order due to mistake, inadvertence, surprise, or excusable neglect.

I declare under penalty of perjury that the forgoing is true and correct.

Dated: New York, New York

Signature



All Rights reserved

August 19, 2010

Address: 203 West 137th Street
New York, New York 10030
Telephone Number: 646-929-3283

NOTARY CERTIFICATION

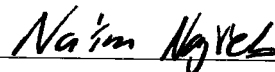
County: New York

State: New York

This document was affirmed and signed before me Naim Najieb on this the 19 day of August 2010.

Notary Seal:

Signature of Notary



NAIM NAJIEB
NOTARY PUBLIC
STATE OF NEW YORK, NEW YORK COUNTY
REG. NO. 01NA6191461
EXPIRES 09/08/2012

Qualified in New York
County

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Chester Davis,

Plaintiff

-V-

Countrywide Home Loans, et al,
Defendants

No. 09 Civ. 8606 (RJS) (HBP)

AFFIRMATION IN SUPPORT
OF
MOTION FOR RECONSIDERATION

I, Chester Davis, affirm under penalty of perjury that:

1. I, Chester Davis, am the plaintiff in the above entitled action, and respectfully move this Court to issue an order of Reconsideration, reopen the case, and grant relief for the Order Adopting Report and Recommendation pursuant to Rule 60(b)(1) FRCP
2. The reasons why I am entitled to the relief I seek is the following:
 - a. On August 17, 2010, I received a document titled "ORDER ADOPTING REPORT AND RECOMMENDATION" from this court.
 - b. In this order, it states that on July 23rd, 2010 Magistrate Judge Pitman issued a report and recommendation pertaining to this case.
 - c. As of this date, I am not in receipt of said report and recommendation.
 - d. Further stated in the document it states "In the Report, Magistrate Judge Pitman advised the parties that failure to file timely objections within fourteen days from service of the Report would constitute a waiver of those objections, See 28 U.S.C. 636(b)(1)(C): Fed R. Civ. P.72(b). No party has filed objections to the Report, and the time to do so has expired. Cf. Frank v Johnson, 968 F. 2d 298 (2d Cir. 1993.)
 - e. I ask that relief be granted from the Order Adopting Report and Recommendations pursuant to Rule 60(b)(1) mistake, inadvertence, surprise, or excusable neglect in that I was not personally notified of the action. I am

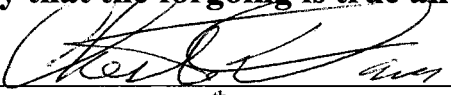
seeking the court to grant relief under 28 U.S.C.1655 due to the fact that I was not personally notified of the action.

- f. As a result I have not had an opportunity to assert any objections or exercise any level of administrative remedy because I have not as of this date received said report.
- g. I am requesting that the order to close this case be vacated, and reopened in order for me to acquire, review, and file objections to said Report and Recommendation.
- h. For the record, notice was sent to the court on May 18th, 2010 in which mail was sent to the wrong address, and I noted an address correction. See Exhibit A.
- i. In pursuant to Rule 65(b) of the Federal Rules of Civil Procedure: At approximately 1:15 p.m., Thursday, August 19, 2010, I spoke on the telephone to Ms. Olga Cave, Secretary to Attorney David Chenkin in the Office of Zeichman-Ellman & Krause LLP, defendant's attorney. Mr. Chenkin was not available and I left a message with Ms. Cave to advise him that an application would be made by Chester Davis of a Motion of Reconsideration.
- j. Pursuant to Rule 6.1(d) since time is of the essence, this motion has been brought by Motion for Reconsideration, and no prior request has been made for the relief requested herein.

WHEREFORE, I respectfully request that the Court grant this motion, as well as such other and further relief as may be just and proper.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: August 19, 2010
New York, New York

Signature 
Address: 203 West 137th Street
New York, New York 10030
Telephone Number: 646-929-3283

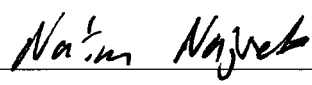
All Rights Reserved

NOTARY CERTIFICATION

County: New York State: New York

This document was affirmed and signed before me Naim Najieb on this the 19 day of August 2010.

Notary Seal:

Signature of Notary 

NAIM NAJIEB
NOTARY PUBLIC
STATE OF NEW YORK, NEW YORK COUNTY
REG. NO. 01NA6191461
EXPIRES 09/03/2012

Qualified in New York County

EXHIBIT A

Chester Davis

203 West 137th Street
New York, NY 10030
646-929-3283

May 18, 2010

Mr. Bruce Hampton
Courtroom Deputy
Chambers of Henry Pitman
United States Magistrate Judge
500 Pearl Street
New York, NY 10007

Re: Davis v. Country Wide Home Loan & Bank of America
09 Civ. 8606 (RJS)(HBP)

Mr. Bruce Hampton:


As per your letter dated April 26, 2010, regarding non-receipt my correspondence to Judge Pitman. I am forwarding a copy of the documents via fax.

Please note that we received your correspondence on May 18, 2010 due to the fact that it was sent to the wrong address. My address is:

**203 West 137 Street
New York, NY 10030**

Please correct your files.

Very truly yours,


Chester Davis

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Chester Deves

(In the space above enter the full name(s) of the plaintiff(s)/petitioner(s).)

- against -

Countrywide Home Loans, et al

(In the space above enter the full name(s) of the defendant(s)/respondent(s).)

09 Civ. 8602 () ()

AFFIRMATION OF SERVICE

I, Natim Najib, declare under penalty of perjury that I have
(name)

served a copy of the attached Notice of Motion for Reconsideration
(document you are serving)

upon Zeigler Ellman & Krause whose address is S75
(name of person served)

Lexington Ave. New York, NY: 10022
(where you served document)

by USPS certified mail return receipt
(how you served document: For example - personal delivery, mail, overnight express, etc.)

Dated: Manhattan, NY
(town/city) (state)
Aug, 19, 2010
(month) (day) (year)

Natim Najib
Signature
234 W 137 st
Address
New York, NY
City, State
10030
Zip Code
212-291-3800
Telephone Number